



Paper No. 27

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AUG 28 2002

OFFICE OF PETITIONS

In re Application of  
Houghton, et al.  
Application No. 09/319,764  
Filed: September 9, 1999  
Attorney Docket No. 8436.63USWO

DECISION ON PETITION

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This is a decision on the petition filed on July 16, 2002,  
pursuant to 37 CFR 1.137(b), to revive the above-identified  
application.

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The petition is **GRANTED**.

TECHNOLOGY CENTER R3700

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed February 16, 2001. This Office action set a shortened statutory period for reply of three (3) months from the mailing date of the action, with extensions of time obtainable under \$1.136(a). On June 29, 2001, applicants replied with an amendment, made timely by an accompanying petition for a two-month extension of time. However, this amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed July 12, 2001). No proper reply having been received and no further extensions of time obtainable, the application became abandoned effective July 17, 2001. A Notice of Abandonment was mailed on August 29, 2001.

With the instant petition, petitioner filed a request for a continued prosecution application (CPA) of the above-identified application under 37 CFR 1.53(d), and met all other requirements for a grantable petition under 37 CFR 1.137(b).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner **must** notify the Office.

The person submitting the petition is a registered practitioner. However, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified

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application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted (It is noted that the petition includes a statement that the filing of a revocation/appointment of power of attorney is forthcoming). While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the CPA, filed July 16, 2002.

The application file is being forwarded to Technology Center 3744 for processing of the CPA and accompanying preliminary amendment.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0309.

  
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